

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CRIMINAL CASE NO. 1:13-cv-00029-MR-DLH-1**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROCKY JOHNSON,

Defendant.

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ORDER

THIS MATTER is before the Court on the Government's Motion for Order of Forfeiture [Doc. 36, refiled as Doc. 37].

On April 2, 2013, the Defendant was charged in a Bill of Indictment with one count of bank robbery, in violation of 18 U.S.C. § 2113(a). [Doc. 1]. The Bill of Indictment includes a Notice of Forfeiture and Finding of Probable Cause, in which the Grand Jury found that there was probable cause to believe that the following property is subject to forfeiture in this case: "A forfeiture money judgment in the amount of at least \$6,274, such amount constituting the proceeds of the violations set forth in this bill of indictment." [Id. at 2].

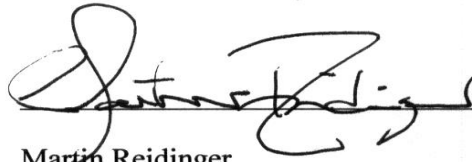
The Defendant pled guilty without the benefit of a plea agreement on December 30, 2013. [See Doc. 34]. Thereafter, the Government filed the present motion for the entry of an order of forfeiture. In its motion, the Government seeks the entry of a forfeiture money judgment in the amount of \$6,274 “by virtue of the plea agreement and guilty plea of the defendant and the determination of the amount of money derived from the offense” to which the Defendant pled guilty. [Doc. 37 at 3].

Contrary to the Government’s assertion, the Defendant did not plead guilty pursuant to a plea agreement in this case; he pled straight up to the charge. Thus, there is no agreement or stipulation on the record as to the issue of forfeiture. Moreover, the Government has not presented any evidence from which the Court can make a determination of the amount of money derived from the offense to which the Defendant pled. Accordingly, the Government’s motion for a forfeiture money judgment is denied without prejudice.

IT IS, THEREFORE, ORDERED that the Government’s Motion for Order of Forfeiture [Doc. 36, refiled as Doc. 37] is **DENIED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

Signed: September 18, 2014


Martin Reidinger
United States District Judge

